

BILL ANALYSIS

C.S.H.B. 1010
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas law makes it a prosecutable offense to engage in direct and explicit sexual contact with a child but is silent on circumstances in which an individual initiates physical contact with a child with the intent of sexually abusing or exploiting that child. Interested parties note that addressing this type of contact could help prevent the occurrence of damaging sexual abuse and exploitation because law enforcement could act sooner in apprehending child predators. C.S.H.B. 1010 seeks to address this issue by making it an offense to cause certain assaultive physical contact with a child.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1010 amends the Penal Code to make it a Class A misdemeanor assault offense for a person 17 years of age or older to intentionally or knowingly cause physical contact with a child that a reasonable person would regard as offensive and sexual in nature and likely to precede sexual conduct constituting a sexual or assaultive offense. The bill makes the affirmative defense to prosecution for sexual assault of a child that is available to the spouse of the child or a person who was not more than three years older than the victim at the time of the offense apply to the assault offense created under the bill's provisions.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1010 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The legislature finds that legislative action is necessary to prevent, deter, and punish inappropriate physical contact of children by adults that is:

- (1) specifically intended to harm a child emotionally and sexually; and
- (2) does not otherwise qualify as prohibited

SECTION 1. Section 22.01, Penal Code, is amended by adding Subsections (a-1) and (c-1) and amending Subsection (c) to read as follows:

(a-1) A person commits an offense if:

- (1) the person intentionally or knowingly causes physical contact with a child; and
- (2) a reasonable person would regard that contact as offensive and sexual in nature.

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the offense is committed under Subsection (a)(3) against an elderly individual or disabled individual[; ~~as those terms are defined by Section 22.04~~]; or

(2) a Class B misdemeanor if the offense is committed by a person who is not a sports participant against a person the actor knows is a sports participant either:

(A) while the participant is performing duties or responsibilities in the participant's capacity as a sports participant; or

(B) in retaliation for or on account of the participant's performance of a duty or responsibility within the participant's capacity as a sports participant.

(c-1) An offense under Subsection (a-1) is a Class A misdemeanor.

SECTION 2. Section 22.01(e), Penal Code, is amended.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

sexual conduct under current criminal law.

SECTION 2. Section 22.01, Penal Code, is amended by adding Subsections (a-1), (c-1), and (c-2) and amending Subsection (c) to read as follows:

(a-1) A person ~~who is 17 years of age or older~~ commits an offense if:

- (1) the person intentionally or knowingly causes physical contact with a child; and
- (2) a reasonable person would regard that contact as:

(A) offensive and sexual in nature; and

(B) likely to precede sexual conduct that is prohibited under Chapter 21 or 22.

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the offense is committed under Subsection (a)(3) against an elderly individual or disabled individual[; ~~as those terms are defined by Section 22.04~~]; or

(2) a Class B misdemeanor if the offense is committed by a person who is not a sports participant against a person the actor knows is a sports participant either:

(A) while the participant is performing duties or responsibilities in the participant's capacity as a sports participant; or

(B) in retaliation for or on account of the participant's performance of a duty or responsibility within the participant's capacity as a sports participant.

(c-1) An offense under Subsection (a-1) is a Class A misdemeanor.

(c-2) The affirmative defense provided by Section 22.011(e) applies to an offense under Subsection (a-1).

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 4. This Act takes effect
September 1, 2013.

SECTION 5. Same as introduced version.